

12 MISC 00166

PREET BHARARA

United States Attorney for the  
Southern District of New York  
By: Alexander J. Wilson  
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/17/12
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

:

STIPULATION AND ORDER OF  
SETTLEMENT

:

- v. -

:

12 MISC.

ANY AND ALL FUNDS ON DEPOSIT IN JP :  
MORGAN CHASE BANK NA ACCOUNT NUMBER :  
85808841488 HELD IN THE NAME OF :  
DB RESEARCH, LLP, UP TO AND :  
INCLUDING ONE HUNDRED FIFTY :  
THOUSAND EIGHT HUNDRED NINETY-FIVE :  
DOLLARS (\$150,895.00); :

:

Defendant-in-rem.

:

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FILED  
U.S. DISTRICT COURT  
S.D. OF N.Y.  
12 MAY 16 PM 1:58

WHEREAS, on or about December 5, 2011, United States Magistrate Judge Frank Maas signed a seizure warrant for any and all funds on deposit in JP Morgan Chase Bank NA Account Number 85808841488 held in the Name of DB Research, LLP, up to and including One Hundred and Fifty Thousand Eight Hundred Ninety-Five Dollars (\$150,895.00) (the "Defendant Funds"), as property subject to seizure and forfeiture to the United States pursuant to Title 31, United States Code, Section 5317 (c) and Title 18, United States Code, Section 984;

WHEREAS, on or about December 5, 2012, Internal Revenue Service ("IRS") agents executed the search warrant and seized the Defendant Funds;

WHEREAS, the IRS subsequently initiated administrative forfeiture proceedings against the Defendant Funds by serving written notice and publishing the seizure and the agency's intent to forfeit the Defendant Funds;

WHEREAS, DB Research, L.L.P. ("DB Research") thereafter filed a claim opposing the forfeiture of the Defendant Funds and the IRS referred the matter to the United States Attorney's Office for judicial forfeiture;

WHEREAS, Roberto Diaz ("Diaz"), President of DB Research, thereafter filed a claim opposing the forfeiture of the Defendant Funds and the IRS referred the matter to the United States Attorney's Office for judicial forfeiture;

WHEREAS, Moises Varon ("Varon"), Vice President of DB Research, thereafter filed a claim opposing the forfeiture of the Defendant Funds and the IRS referred the matter to the United States Attorney's Office for judicial forfeiture;

WHEREAS, JP Morgan Chase NA ("JPMC") thereafter filed a claim with the United States Attorney's Office for the Defendant Funds, asserting that it had a prior security interest in those funds under the terms of various agreements with DB Research and an affiliated entity.

WHEREAS, DB Research, Diaz, Varon, and JPMC are the only persons known by the Government to have an interest in the Defendant Funds, no other parties have filed a claim for the Defendant Funds, and the time periods for doing so have expired;

WHEREAS, DB Research, Diaz and Varon, admitting no wrongdoing in connection herewith, have agreed that JPMC is entitled to the Defendant Funds;

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED, by and between Preet Bharara, United States Attorney for the Southern District of New York, by and through Assistant United States Attorney Alexander J. Wilson, DB Research, L.L.P., Roberto Diaz and Moises Varon, by and through their attorney, Bruce Harvey, Esq. and JPMorgan Chase Bank, N.A., by and through its attorney, David Curcio, Esq., that:

1. The Internal Revenue Service, its agent or designee shall transfer \$150,895.00 to JP Morgan Chase N.A. pursuant to wire transfer instructions provided by JP Morgan Chase N.A.

2. DB Research, L.L.P., Roberto Diaz, and Moises Varon withdraw their claim to the Defendant Funds, and agree to the release of the Defendant Funds to JPMorgan Chase Bank, N.A.

3. The Parties understand and agree that the funds to be released by the United States to JPMorgan Chase Bank, N.A. under this Agreement shall be applied to debts owed by DB

Research, L.L.P. to JPMorgan Chase Bank, N.A. and DB Research, L.L.P. hereby waives any rights it may otherwise have to those funds. DB Research, L.L.P. releases, acquits, and discharges JPMorgan Chase Bank, N.A. and its employees, agents, representative, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporation, and related corporate divisions (the "JPMC Released Parties"), from all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages, and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter arising, for or because of any matter or things done, omitted or suffered to be done by any of the JPMC Released Parties, which arise from or relate to the release to, and the use and application of those funds by, JPMorgan Chase Bank, N.A.

4. DB Research, L.L.P., Roberto Diaz, Moises Varon, and JPMorgan Chase Bank, N.A. ("Claimants") are hereby barred from asserting, or assisting others in asserting, any claim against the United States of America, the Internal Revenue Service, the United States Department of Homeland Security, the U.S. Attorney's Office for the Southern District of New York, and their officers, agents and employees (the "Government Released

Parties") in connection with or arising out of the seizure, restraint, and/or constructive possession of the Defendant Funds, including, but not limited to, any claim that there was no probable cause to seize and/or forfeit the Defendant Funds, that either DB Research, L.L.P. or JPMorgan Chase Bank, N.A. is a prevailing party, or that Claimants are entitled to attorney's fees or any award of interest.

5. Claimants represent that they are the sole parties with an interest in the Defendant Funds, and agree to hold harmless the Government Released Parties, from any and all claims in connection with or arising out of the seizure, restraint, and/or constructive possession of the Defendant Funds, including but not limited to any third-party claims of ownership of the Defendant Funds.

6. Claimants hereby agree to waive all rights to appeal or otherwise challenge or contest the validity of this Stipulation and Order.

7. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of Claimants, the United States, or any of their respective agents, officers or employees, past and present. Further, this Stipulation and Order shall in no way constitute any reflection upon the merits of the claim and defenses asserted respectively by the United States and Claimants.

8. This Stipulation and Order may be executed in counterparts, each of which shall constitute an original as against the party whose signature appears on it. All executed counterparts shall be deemed to be one and the same instrument. This Stipulation and Order shall become binding when one or more counterparts, individually or taken together, bears the signature of all Parties. A facsimile or electronic image of the original signature of any party executing this Stipulation and Order shall be deemed an original signature and shall constitute an original as against the party whose signature appears in the facsimile or electronic image.

9. Each party shall bear its own costs and attorney's fees as to this proceeding. This Stipulation and Order shall not affect any possible determination regarding costs and attorney's fees in any other proceedings between or among Claimants.

10. This Stipulation and Order constitutes the complete agreement between the parties hereto and may not be

amended except on written consent of such parties.

Agreed and consented to:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States

By: 

Alexander J. Wilson  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2453

5/4/12  
DATE

DB Research, L.L.P., Roberto Diaz,  
and Moises Varon, Claimants

By: \_\_\_\_\_

Bruce S. Harvey, Esq.  
Attorney for DB Research, L.L.P.,  
Roberto Diaz and Moises Varon  
The Law Offices of Bruce S. Harvey  
146 Nassau Street NW  
Atlanta, GA 30303  
(404) 659-4628

\_\_\_\_\_  
DATE

JP Morgan Chase, NA, Claimant

By: \_\_\_\_\_

David S. Curcio  
Attorney for JP Morgan Chase, NA  
Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, Texas 77010  
(713) 752-4441

\_\_\_\_\_  
DATE

So Ordered:

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE (PART I)  
SOUTHERN DISTRICT OF NEW YORK

amended except on written consent of such parties.

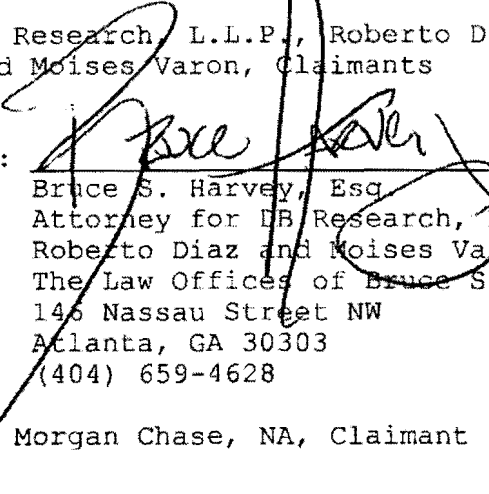
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Attorney for the United States

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Alexander J. Wilson  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2453

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DATE

DB Research, L.L.P., Roberto Diaz,  
and Moises Varon, Claimants

By:  \_\_\_\_\_  
Bruce S. Harvey, Esq.  
Attorney for DB Research, L.L.P.,  
Roberto Diaz and Moises Varon  
The Law Offices of Bruce S. Harvey  
146 Nassau Street NW  
Atlanta, GA 30303  
(404) 659-4628

  
\_\_\_\_\_  
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JP Morgan Chase, NA, Claimant

By: \_\_\_\_\_  
David S. Curcio  
Attorney for JP Morgan Chase, NA  
Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, Texas 77010  
(713) 752-4441

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SOUTHERN DISTRICT OF NEW YORK



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Attorney for the United States

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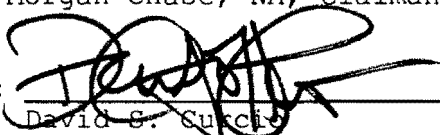
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DB Research, L.L.P., Roberto Diaz,  
and Moises Varon, Claimants

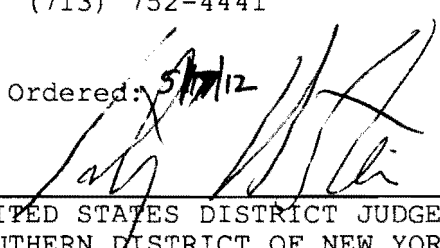
By: \_\_\_\_\_  
Bruce S. Harvey, Esq.  
Attorney for DB Research, L.L.P.,  
Roberto Diaz and Moises Varon  
The Law Offices of Bruce S. Harvey  
146 Nassau Street NW  
Atlanta, GA 30303  
(404) 659-4628

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JP Morgan Chase, NA, Claimant

By:  \_\_\_\_\_  
David S. Curcio  
Attorney for JP Morgan Chase, NA  
Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, Texas 77010  
(713) 752-4441

May 10, 2012  
\_\_\_\_\_  
DATE

So Ordered:  5/17/12

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE (PART I)  
SOUTHERN DISTRICT OF NEW YORK